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09/710,042	11/08/2000	Stefaan Valere Albert Coussement	P4643	4522

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EXAMINER

VU, THONG H

ART UNIT PAPER NUMBER

2142

DATE MAILED: 07/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

09/710,042

Applicant(s)COUSSEMENT, STEFAAN
VALERE ALBERT**Examiner**

Thong H Vu

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2142

1. Claims 1-34 are pending.
2. Claims 1 and 19 have been amended to overcome the prior art. The Final action is appropriated.
3. The substitute specification filed on 5/10/2004 is entered.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-34 are rejected under the judicially created doctrine of double patenting over claims 1-8 of U. S. Patent No. 6,389,007 B1 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

(Patent'007. Claim 1)

An integrated router (IR) comprising:

a first link connecting the IR to a telephony switch for receiving and switching connection-oriented, switched telephony (COST) calls to connected telephones at agent stations;

a second direct link coupling the IR to a DNT processor capable of receiving and switching data network telephony (DNT) calls to network-connected DNT interface equipment at the agent stations;

an agent-status data repository for storing status and availability information of the agent stations; and

control routines directly monitoring and controlling both the telephony switch and the DNT processor, via the first and second links;

wherein the telephony switch and the DNT processor directly report incoming calls, whether COST or DNT, to the IR, and the IR directly controls the telephony switch and the DNT processor to route calls to available agent stations under a single set of routing rules at least partially based on agent status and availability information received from the agent-status data repository.

(Application. Claim1)

A network-based system for enabling users of the system to obtain current agent-status Information related to agents of an information-source facility connected to the network before initiating contact with the agent or agents of the information-source facility:

a first server node connected to the information-source facility and to the network; a second server node connected to the first server node and to the network, the first server node accessible to the second server node;

a network-capable appliance connected to the network, the second server node accessible to the network-capable appliance; and

a software application distributed on at least the first and second server-nodes, the software application enabling distribution of the agent status information; wherein the user operating the network-capable appliance accesses the second server node, states the intent of the call and requests the agent-status information, the agent-status information accessed from the first server node by the second server node, based on the stated intent and is delivered to the requesting user.

(claim 18) the functions of the first and second server nodes are implemented within a single server node connected to the communications center, the network, and accessible to the network-capable appliance

It was clearly that the web provider was includes to the first, second server, via a router or gateway, network appliance which provide the agent communication status to user request or operating (i.e.: monitoring).

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-34 are rejected under 35 U.S.C. § 103 as being unpatentable over Ezerzer et al [Ezerzer 6,697,858 B1] in view of Davidson et al [Davidson 6,434,121 B1]

5. As per claim 1, Ezerzer discloses a network-based system for enabling users of the system to obtain current agent-status Information (i.e.: instant message) related to agents of an information-source facility (i.e.: server, call center) connected to the network before initiating contact with the agent or agents of the information-source facility comprising:

a first server node connected to the information-source facility and to the network [Ezerzer, DB server(J) and Host server (M) connected to Call Center (P), Fig 5]; a second server node connected to the first server node and to the network, the first

Art Unit: 2142

server node accessible to the second server node [Ezerzer, DB server(J) and Host server (M) connected to Call Center (P), Fig 5];

a network-capable appliance connected to the network, the second server node accessible to the network-capable appliance [Ezerzer, Internet-based, col 10 lines 30-52;Voice over Internet, col 23 lines 45] and

a software application distributed on at least the first and second server-nodes, the software application enabling distribution of the agent status information [Ezerzer, application and agent status information, col 20 lines 30-44]:

Ezerzer also discloses detail the user operating the network-capable appliance accesses the second server node, **states the intent of the call** [Ezerzer, recognize an incoming request for service, col 7 lines 34-52; the processor detects the type of each received call/ request and extracts network routing and original information, col 5 lines 30-47]; delivered to the requesting user [Ezerzer, the application provides the user with ability configure and modify agent status, col 19 lines 15-35; run reports on multimedia transaction history on a user, agent, workgroup, col 19 lines 37-57]

However Ezerzer does not explicitly detail requests the agent-status information, the agent-status information accessed from the first server node by the second server node, **based on the stated intent** and delivered to the requesting user.

A skilled artisan would have motivation to improve the flexible management process and found in the telephone art that the computer collects agent status information through the shared call appearance feature of each of several offices to which it is connected [Davidson col 2 lines 25-45] and based on the generated status

Art Unit: 2142

and management information, select the connecting agent for handling incoming call

[Davidson, abstract]

An Official Notice is taken that the technique of handling the incoming call request based the status information was well-known in the art [see Miloslavsky, Gechter, Andrews references].

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the technique of handling the incoming call request based the agent status information as taught by Davidson into the Ezerzer's apparatus in order to utilize the flexible management process. Doing so would provide a quick, simple and security to response a incoming call based on agent status information.

6. Claim 19 contains the similar limitations set forth of apparatus claim 1. Therefore, claim 19 is rejected for the similar rationale set forth in claim 1.

7. As per claims 2,20 Ezerzer-Davidson disclose the network is a data packet-network [Ezerzer, Cellular packet data, TCP/IP network, col 6 lines 19-24].

8. As per claims 3,21 Ezerzer-Davidson disclose the data-packet-network is the Internet network [Ezerzer, Internet-based, col 10 lines 30-52;Voice over Internet, col 23 lines 45].

Art Unit: 2142

9. As per claims 4,22 Ezerzer-Davidson disclose the information-source facility is a communication center marketing products and or service to the users [Ezerzer, Call center, Fig 5].

10. As per claims 5,24 Ezerzer-Davidson disclose the agents are human resources employed by the communication center [Ezerzer, human operator, col 11 lines 15-40].

11. As per claims 6,25 Ezerzer-Davidson disclose the agents are automated systems implemented at the communications center [Ezerzer, automated attendant functions, col 22 lines 45-67].

12. As per claims 7,27 Ezerzer-Davidson disclose the agent-status information includes a description of the agent and or agents capabilities, the number of calls waiting in the agent's or agents' queue or queues, and an estimated time for response by the agent or agents [Ezerzer, waiting time, col 27 lines 23-33].

13. As per claims 8,28 Ezerzer-Davidson disclose the number of calls waiting information and the estimated time for response information is averaged over a group of agents [Ezerzer, group 1,2,3 col 17 lines 1-67]

Art Unit: 2142

14. As per claims 9,29 Ezerzer-Davidson disclose a number of calls waiting information and the estimated time for response information is specific to a specific agent user [Ezerzer, waiting time, col 27 lines 23-33].

15. As per claims 10,30 Ezerzer-Davidson disclose the agent-status information delivered to the requesting user is specific to the request initiated by the user [Ezerzer, agent status information, col 20 lines 30-44].

16. As per claims 11,31 Ezerzer-Davidson disclose the agent-status information automatically updates periodically during a user session [Ezerzer, a scheduling server with modifying option, col 24 line 12-col 25 line 33].

17. As per claims 12,32 Ezerzer-Davidson disclose the agent-status information is continually streamed to the requesting user during session [Ezerzer, agent status information, col 20 lines 30-44].

18. As per claim 13, Ezerzer-Davidson disclose the agent-status information is pulled from the first server node by the second server node according to the user's request [Ezerzer, agent status information, col 20 lines 30-44].

19. As per claim 14, Ezerzer-Davidson disclose the agent-status information is pushed to the second server node by the first server node and is available to be pulled

Art Unit: 2142

by the user [Ezerzer, agent status information, col 20 lines 30-44; Internet-based, col 10 lines 30-52].

20. As per claims 15,34 Ezerzer-Davidson disclose the software application uses instant message technology in the transfer of agent-status information [Ezerzer, instant message, col 26 lines 55-67].

21. As per claim 16, Ezerzer-Davidson disclose the software application uses streaming technology in the transfer of agent-status information [Ezerzer, video, col 18 lines 1-20; real time, col 19 lines 65-67].

22. As per claim 17, Ezerzer-Davidson disclose the software application embeds the agent-status information into a Web page requested by the user [Ezerzer, agent status information, col 20 lines 30-44]

23. As per claim 18, Ezerzer-Davidson disclose the functions of the first and second server nodes are implemented within a single server node connected to the call center, the network, and accessible to the network-capable appliance as a design choice.

24. As per claim 26, Ezerzer-Davidson disclose the agent status information is compiled using agent monitoring software [Ezerzer, agent status information, col 20 lines 30-44].

Art Unit: 2142

25. As per claim 33, Ezerzer-Davidson disclose there are more than one server nodes in line on the network path, the server nodes hosted by the communication center [Ezerzer, Call center, Fig 5].

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (703)-305-4643.

The examiner can normally be reached on Monday-Thursday from 8:00AM- 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Jack Harvey*, can be reached at (703) 305-9705.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9700.

Any response to this action should be mailed to: Commissioner of Patent and Trademarks, Washington, D.C. 20231 or faxed to :

After Final (703) 746-7238

Official: (703) 746-7239

Non-Official (703) 746-7240

Hand-delivered responses should be brought to Crystal Park 11,2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

Thong Vu
Patent Examiner
Art Unit 2142

